Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
Qwest Tariff FCC No. 1	)	WCB Docket No. 02-117
Transmittal No. 120	)	

ORDER DESIGNATING ISSUES FOR INVESTIGATION

Adopted: May 23, 2002 **Released: May 23, 2002**

By the Deputy Chief, Pricing Policy Division:

Direct Case Due: June 10, 2002
Oppositions Due: June 24, 2002
Rebuttal Due: July 1, 2002

I. INTRODUCTION

1. On April 1, 2001, the Pricing Policy Division (Division) released an order[1] that, *inter alia*, suspended for five months and set for investigation Qwest Corporation (Qwest) Tariff FCC No. 1, Transmittal No. 120. Qwest's transmittal sought to establish rate increases, over a two-year period, to recover extraordinary costs associated with the implementation of thousands-block number pooling, pursuant to the provisions of the Commission's Numbering Resource Optimization Third Report and Order.[2] In the *Suspension Order*, we concluded that the tariff filing by Qwest raised significant questions of lawfulness that warranted investigation. In this order, we designate issues for the investigation of Qwest's Transmittal No. 120 and we direct Qwest to file additional information as described below.

II. ISSUES DESIGNATED FOR INVESTIGATION

A. Switching Costs

2. We observe that Qwest's switching upgrade cost claims are very high compared to those claimed by other large carriers that have filed to date. The two most significant factors accounting for these higher costs appear to be that Qwest seeks recovery of costs for generic

[1] *BellSouth Tariff FCC No. 2, Transmittal No. 623, Qwest Tariff FCC No. 1, Transmittal No. 120*, Order, DA 02-747, WCB/Pricing No. 02-08 (released Apr. 1, 2002) (*Suspension Order*).

[2] *Numbering Resource Optimization*, CC Docket Nos. 96-98 and 99-200, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252 (2001)(*Third Report and Order*).

upgrades for its DMS 10 and AXE 10 switches and that the costs claimed for upgrading AXE 10s are very much higher than those for other switch types. In addition, Qwest has claimed costs for memory expansion on its DMS 10s. We designate for investigation whether these switch upgrade costs meet the three-prong test for extraordinary costs established in the *Third Report and Order*[3] and also whether the costs claimed for AXE 10 upgrades are reasonable.

3. Qwest argues that the costs of the generic upgrades (and memory additions) meet the three-pronged test for extraordinary costs established in the *Third Report and Order*.[4] Qwest argues that it would not have purchased these generics "but for" thousands-block number pooling. Qwest further asserts that the generics provide no other features or functions that will be used by Qwest. Accordingly, Qwest claims the entire cost of the generics as incremental to thousands-block number pooling.[5]

4. We direct Qwest to explain the methodology used to calculate generic upgrade costs. Specifically, Qwest shall provide a complete listing, with descriptions, of all functionalities included in the generic software purchased for which cost recovery is claimed in its Transmittal No. 120. Qwest shall classify each functionality in one of three categories: (1) not required for thousands-block number pooling; (2) supports thousands-block number pooling, but the network is capable of the function exclusive of the software purchased; and (3) required for thousands-block number pooling and not provided by any other method in the Qwest network. Qwest shall also describe, in detail, its cost allocation methodology to separate allowed and disallowed costs. Specifically, Qwest shall describe and demonstrate the allocation of generic software upgrade costs between functions not provided elsewhere in the Qwest network that are required for thousands-block number pooling and all other functionalities. Qwest shall provide the information described in this paragraph for all generic software claimed as part of its Transmittal No. 120 costs. We also direct Qwest to explain whether number pooling is being implemented in all areas served by the switches for which it claims upgrade costs.

5. Qwest has asserted, during discussions with the Division, that the AXE 10 switches present comparatively high costs for thousands-block number pooling implementation because they are not widely used. Thus Qwest asserts that the costs to cover development of the needed software were spread over relatively few switches, in contrast to software for more widely used switches. Qwest asserts that it would not have made the improvements to its AXE 10 switches absent a requirement to implement number pooling. We direct Qwest to explain its rationale for its decisions not to replace or upgrade these switches. This explanation shall provide a detailed accounting of the cost savings Qwest has realized by not replacing or upgrading these AXE 10 switches. We also direct Qwest to provide a list and copies of any inquiries or directives from state commissions, over the past five years, concerning the adequacy of service provided through its AXE 10 switches. We further direct Qwest to provide an estimate of the number pooling switch upgrade costs it would have incurred if these AXE 10s had been

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[3] *Third Report and Order*, 17 FCC Rcd at 273-274, para. 43.

[4] *Third Report and Order*, 17 FCC Rcd at 273-274, para. 43.

[5] Reply of Qwest Corporation, filed March 29, 2002 at 11.

replaced by newer switches, similar to those in other parts of its network, prior to the implementation of thousands-block number pooling, explaining the methodology on which it bases this estimate.

B. Other Mandates

6. In their petitions against Qwest's Transmittal No. 120, AT&T and WorldCom assert that Qwest included costs to implement various mandates of the Commission other than those thousands-block number pooling functions that were specifically enumerated in the *Third Report and Order*.[6] These other numbering resource optimization mandates include Number Resource Utilization and Forecasting (NRUF) reporting, the implementation of uniform classification of numbers, and other changes in number administration. AT&T and WorldCom contend that carriers would have had to meet these other mandates even if pooling had not been mandated. In not providing special cost recovery for these other mandates, the Commission deemed that these fell within the scope of general costs of number administration already provided for in price cap revenues.[7] Accordingly, AT&T and WorldCom argue that the costs of meeting these other mandates do not pass the "but for" test for pooling. Qwest responds that these other requirements are part of pooling and that the costs meet the three-pronged test for recovery. For example, Qwest argues that if it does not accurately calculate its utilization rate and produce forecasts, it cannot properly donate or receive blocks of numbers to or from the pool.[8]

7. We designate for investigation whether costs of implementing these separately enumerated mandates meet the three-prong test for eligibility for exogenous cost recovery. To assist our analysis of this issue, we direct Qwest, as part of its direct case, to separate costs associated with these other mandates from the other costs it claims as exogenous in its Transmittal No. 120 filings. We direct Qwest to explain its method used to separate these costs. We further direct Qwest to explain how each cost that supports a mandate separately enumerated from number pooling meets the three-prong test for cost recovery set out in the *Third Report and* Order.[9]

C. Network Support

8. Qwest's network support cost claims appear substantially greater than those claimed by other large carriers that have filed to date for exogenous treatment of thousands-block number pooling implementation. At issue are those costs listed as "Administration and Support Cost" presented in Qwest's Workpaper 1, supporting the Description and Justification submitted

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[6] *See* Petition of AT&T Corp., filed March 25, 2002. at 13-15; Petition of WorldCom, Inc., filed March 25, 2002 at 5.

[7] *Third Report and Order*, 17 FCC Rcd at 270, para. 37.

[8] Reply of Qwest Corporation, filed March 29, 2002, at 4-5.

[9] *Third Report and Order*, 17 FCC Rcd at 273-275, paras. 43-46.

with Transmittal No. 120.[10] These costs are also described as "Staffing and Personnel Related Costs."[11] Qwest asserts that number pooling requires significant personnel-related costs for "planning, number identification, provisioning and maintenance of number pooling."[12] Qwest provides a chart supporting its cost claims entitled "Employees placed to support Number Pooling," which indicates the number of employees required for each item each year.[13] We have two general concerns with respect to Qwest's enumerated "Administration and Support Costs." First, it is unclear whether all these costs are related to number pooling, as distinguished from other Commission numbering resource optimization mandates. Second, because there is a significant mismatch in the workpapers between the time pattern of the costs claimed for these items and the "headcounts" Qwest reports in each year, we do not understand the connection between the reported personnel and the claimed "staffing and personnel related" costs.

9. We designate for investigation whether Qwest's "administration and support" (or "staffing and personnel related") costs are properly included as exogenous costs resulting from the implementation of thousands-block number pooling. In its "Workpaper 1a Cost Descriptions," Qwest refers to "Staffing and Personnel Related Costs."[14] Qwest does not make clear the relationship between the number of employees required for certain functions and the related costs. In particular, substantial costs are reported in certain years for functions for which zero or few personnel are reported. For example, $4,155,000 is reported for Item 33 in 2001, but zero employees. In its direct case, Qwest shall explain in detail how it developed the costs shown as "Administration and Support Cost" on Workpaper 1 for each item and in each year. As part of this explanation, Qwest shall describe with particularity all elements of the personnel costs, showing salary or other compensation and the composition of each loading factor including pension, overhead, and administration costs. Qwest shall also describe how each loading factor is derived and how it meets the three-prong test for recovery.

10. We also direct Qwest, in its direct case, to disclose which of the network support functions may also be performed by systems for which it seeks recovery in the OSS portion of its exogenous cost claim. In such cases where there is an overlap between the manual and automated operations, Qwest shall provide a clear and precise delineation between the two methods.

11. We also designate as an issue for investigation whether the level of Qwest's claims for number preparation is reasonable. We also direct Qwest to describe, in detail, the procedures and processes used to review the number blocks and a description of other procedures and processes considered with an explanation of the reasons for selecting the procedures used.

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[10] Qwest Workpaper 1, at 2. The "Administration and Support Cost" section includes reference numbers: 28, 29, 30, 31, 33, 34, 35, 36, 39, 40, 41, 44, 45, and 46.

[11] Qwest Workpaper 1a Cost Descriptions at 8.

[12] *Id.*

[13] *Id.*

[14] *Id.* at 8-11.

Qwest shall discuss whether and the extent to which this work was required to comply with Number Resource Utilization and Forecasting (NRUF) reporting.

12. We also designate for investigation whether Qwest included ineligible repair costs. Item 30 in Qwest's "Workpaper 1a Cost Descriptions" ("Complex Translations technical consultant and testers"), describes a new, fulltime function to address "trouble conditions" generated by number pooling.[15] We direct Qwest to provide specific descriptions and details of trouble conditions that have arisen. For each trouble condition, Qwest shall provide a description of the action necessary to resolve the trouble condition. We anticipate that much of this information has been generated by the work described in item 36 ("Repair, repair screening and repair analysis"). To support its assertion that these costs are directly related to the implementation of thousands-block number pooling, rather then repair costs that are an "incidental consequence" of number pooling, Qwest shall describe, in its direct case, the nexus between number pooling and the specific problems addressed by these costs.

D. OSS Costs

13. Qwest also seeks exogenous recovery of costs related to Operational Support systems (OSS). Qwest states that it included costs "incurred to identify, donate and receive blocks of pooled numbers, to create and populate the regional databases and Qwest's local copies of the databases, and to adapt procedures" to query the databases and to route calls.[16] It is unclear, however, how the specific OSS associated costs claimed by Qwest arise from number pooling. In addition, certain OSS costs claimed appear to support marketing of advanced services and similar functions that may not be sufficiently related to number assignment or pooling to warrant exogenous treatment.

14. Therefore, we designate as an issue for investigation whether all of the OSS costs claimed by Qwest are properly included as exogenous costs resulting from the implementation of thousands-block number pooling. Pursuant to the *Third Report and Order*, the burden is upon Qwest to overcome the presumption that specific OSS costs claimed are not part of number administration costs for which Qwest is already compensated under price caps.[17] To meet this burden, Qwest, in its direct case, must describe each OSS functionality and how that function fits within the definition of those costs allowed by the *Third Report and Order*. Specifically, Qwest should provide a narrative description of each included OSS function and an accompanying narrative explaining how that function is used "to identify, donate and receive blocks of pooled numbers, to create and populate the regional databases and carriers' local copies of these databases, and to adapt the procedures for querying these databases and for routing calls so as to accommodate a number pooling environment."

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[15] *Id* at 9.

[16] Qwest D&J at 14.

[17] *Third Report and Order*, 17 FCC Rcd at 271, para. 39.

E. Cost Savings

15. In the *Third Report and Order*, the Commission sought to build on its efforts to ensure continued efficient use of the limited numbering resources of the North American Numbering Plan (NANP) so that these resources do not exhaust prematurely.[18] The Commission sought to ensure that all carriers have the numbering resources necessary to compete in the telecommunications marketplace.[19] The *Third Report and Order* specifically addressed the federal cost recovery for national thousands-block number pooling.[20] The Commission concluded that many of the costs associated with thousands-block number pooling are ordinary costs for which no additional special recovery would be appropriate. The Commission also addressed specific cost recovery provisions for price cap local exchange carriers.[21] The *Third Report and Order* also stated that "all carriers and subscriber will benefit from national thousands-block number pooling to the extent that it postpones or avoids area code relief and ultimately the replacement of the existing NANP."[22]

16. The *Third Report and Order* states that "thousands-block number pooling is simply an enhancement to the previous numbering administration plan that facilitates more efficient coordination among all carriers . . . ."[23] Thus, the Commission considered the costs associated with activities such as reusing numbers assigned to former subscribers, area code splits and overlays to be examples of "ordinary LEC administrative functions that are recovered in LEC rates generally." The *Third Report and Order* states that, "[u]nder price caps, [these costs] are usually considered normal network upgrades that do not qualify for extraordinary recovery (*i.e.*, through an exogenous adjustment to the price cap formula)," and that, "in principle, recovery of the costs of numbering administration is already provided for in LEC compensation."[24] In the *Third Report and Order*, the Commission recognized that it mandated thousands-block number pooling "as a national numbering resource optimization strategy" distinguishable from numbering plan administration (NPA) relief.[25] The Commission said that, "because recovery for numbering administration expenses is already included in basic LEC compensation . . . , LECs seeking extraordinary recovery of thousands-block number pooling costs in the form of an exogenous adjustment to their price cap formula (sic) must overcome a

[18] *Id.* at 254, para. 1.

[19] *Id.* at 254-55, para. 1.

[20] *Id.* at 264-275, paras. 24-29.

[21] *Id.* at 270-75, paras. 37-46.

[22] *Third Report and Order*, 17 FCC Rcd at 269, para 34; *citing* Nimbering Resource Optimization, *Notice of Proposed Rulemaking*, 14 FCC Rcd at 10384, para. 138.

[23] *Id* at 270, para. 36.

[24] *Id.* at 270, para. 37.

[25] *Id* at 271, para. 38.

rebuttable presumption that no additional recovery is justified."[26] In addition, the Commission in the *Third Report and Order* stated that "carriers must also demonstrate that thousands-block number pooling results in a net cost increase rather than a cost reduction."[27]

17. We designate as an issue for investigation the methodology appropriate to calculate the savings to Qwest of delaying area code relief. Qwest shall provide a detailed listing of costs associated with each area code relief action taken during the past five years. Qwest shall also provide copies of any and all specific requests for relief or compensation from any state associated with implementing area code splits or overlays and shall provide a description and copy of any relief granted by any state. Qwest shall also explain the methodology it used to separate and remove the costs of any early implementation of number pooling, *i.e.*, before the national rollout required by any state commission.

III. PROCEDURAL MATTERS

18. This investigation will be conducted as a notice and comment proceeding. We have designated WCB Docket No. 02-1245. Qwest Corporation is the designated party to this investigation.

19. Qwest shall file its direct case no later than June 10, 2002. The direct case must present Qwest's positions with respect to the issues described in this order. Pleadings responding to the direct case may be filed no later than June 24, 2002, and must be captioned "Oppositions to Direct Case" or "Comments on Direct Case." Qwest may file a "rebuttal" to oppositions or comments no later than July 1, 2002.

20. Parties who choose to file by paper must file an original and four copies of each filing with the Secretary of the Commission. In addition, parties shall serve three paper copies with Andrew Mulitz, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C411, Washington, D.C. 20554. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties shall also

[26] *Id.* at 271, para 39.

[27] *Id.* at 271, para. 40.

serve one copy with Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893. Documents in WCB Docket No. 02-117 are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. S.W., Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from Qualex International, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail: Qualexint@aolcom.

21. Parties are also strongly encouraged to submit their pleadings via the internet through the ECFS to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

22. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of reliance on such information is noted in the order.

IV. *EX PARTE* REQUIREMENTS

23. This tariff investigation is a "permit-but-disclose proceeding" and subject to the requirements of section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.[28] Other rules pertaining to oral and written presentations are set forth in section 1.1206(b). Interested parties are to file any written *ex parte* presentations in this proceeding with the Commission's Secretary, Marlene H. Dortch, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, and serve with three copies: Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-C411, Washington, D.C. 20554, Attn: Andrew Mulitz. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893.

V. ORDERING CLAUSES

24. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 203(c), 204(a), 205, 403, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§

[28] *See* 47 C.F.R. § 1.1206(b)(2), as revised.

0.91, 0.291, the issues set forth in this order ARE DESIGNATED FOR INVESTIGATION.

25. IT IS FURTHER ORDERED that Qwest Corporation SHALL BE a party to this proceeding.

26. IT IS FURTHER ORDERED that Qwest Corporation, a party to this proceeding, SHALL INCLUDE, in its direct case, a response to each request for information that it is required to answer in this order.

FEDERAL COMMUNICATIONS COMMISSION

Deena M. Shetler
Deputy Chief, Pricing Policy Division
Wireline Competition Bureau